



PATENT

Attorney Docket No.: 18184-0004 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Patent application of : Group Art Unit:
Herbert W. Harris, *et al.* : 1617
Serial No.: 10/728,261 : Examiner:
Filed: December 3, 2003 : Kendra D. Carter
For: Pharmaceutical composition of 1- (3,4-
dimethoxyphenyl)-4-methyl-5-ethyl-7-methoxy-8-
hydroxy-5H-2,3-benzodiazepine and uses thereof

TERMINAL DISCLAIMER

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Terminal Disclaimer Over Patent No. 6,638,928

The owner, Vela Acquisition Corporation¹, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the

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CERTIFICATE OF MAILING
UNDER 37 C.F.R. 1.8(a)

I hereby certify that this paper, along with any paper referred to as being attached or enclosed, is being deposited with the United States Postal Service on the date indicated below, with sufficient postage, as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

BY

DATE:

Jennifer R. Harris
12/26/06

¹ A Certificate of Ownership and Merger evidencing the merger of the former owner, Vela Pharmaceuticals Inc., into Vela Acquisition Corporation, was submitted for recordation on December 22, 2006 against the patents and applications referenced herein.

expiration date of the full statutory term of prior **patent No. 6,638,928** as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that the prior patent later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or

is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Terminal Disclaimer Over Patent No. 6,864,251

The owner, Vela Acquisition Corporation, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of prior **patent No. 6,864,251** as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that the prior patent later:

- expires for failure to pay a maintenance fee;

- is held unenforceable;

- is found invalid by a court of competent jurisdiction;

- is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321;

- has all claims canceled by a reexamination certificate;

- is reissued; or

- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Terminal Disclaimer Over Application Number 10/461,290

The owner Vela Acquisition Corporation, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending **reference Application Number 10/461,290**, filed on June 13, 2003, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, "as the term of any patent granted on said reference application may be

shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application,” in the event that: any such patent: granted on the pending reference application:

- expires for failure to pay a maintenance fee;

- is held unenforceable;

- is found invalid by a court of competent jurisdiction;

- is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321;

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Terminal Disclaimer Over Application Number 10/727,940

The owner Vela Acquisition Corporation, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference **Application Number 10/727,940**, filed on December 3, 2003, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, “as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending

reference application,” in the event that: any such patent: granted on the pending reference application:

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Terminal Disclaimer Over Application Number 10/728,286

The owner Vela Acquisition Corporation, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending **reference Application Number 10/728,286**, filed on December 3, 2003, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, “as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application,” in the event that: any such patent: granted on the pending reference application:

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Terminal Disclaimer Over Application Number 10/781,422

The owner Vela Acquisition Corporation, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending **reference Application Number 10/781,422**, filed on February 17, 2004, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, “as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application,” in the event that: any such patent: granted on the pending reference application:

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Terminal Disclaimer Over Application Number 10/827,839

The owner Vela Acquisition Corporation, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending **reference Application Number 10/827,839**, filed on April 19, 2004, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that: any such patent: granted on the pending reference application:

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The undersigned is an attorney or agent of record.

The terminal disclaimer fee under 37 C.F.R. 1.20(d) is included.

Respectfully submitted,

VELA ACQUISITION CORPORATION

BY 

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